

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 06-CR-20415

EDWARD W. FISHER and BRIAN W. LAMBKA,

Defendants.

ORDER DENYING DEFENDANT FISHER'S MOTION FOR DISCOVERY

Defendant Edward W. Fisher filed a motion for discovery April 8, 2008. The government responded and, the matter having been fully briefed, the court concludes that a hearing is not necessary. See E.D. Mich. LCrR 12.1; E.D. Mich. LR 7.1(e)(2). For the reasons stated below, the court will deny the motion.

Defendant seeks witness materials, including (1) all witness statements, (2) interview notes, (3) grand jury testimony, (4) a revised final witness list and (5) a revised final exhibit list. The government responds that Defendant has no right to the witness materials he seeks and that he has already received tentative witness and exhibit lists, which at this juncture cannot be finalized. The court agrees that the motion should be denied. Rule 16 specifically excludes certain categories of Defendant's request. Fed. R. Crim. P. 16(a)(2)-(3). Moreover, Defendant has not provided the court with sufficient authority demonstrating that the government is required to produce more than it has voluntarily provided. The court is not persuaded that the government should be ordered to furnish more than what it has already. Defendant simply has no entitlement to final witness and exhibit lists, grand jury testimony, witness statements and internal

government notes. Nor is the court convinced that Defendant's concerns about unfair surprise are warranted. Pursuant to the rules, Defendant has been afforded fair notice.

Under these circumstances, the court will deny the motion. Accordingly,

IT IS ORDERED that Defendant Fisher's "Motion for Discovery of Witness Materials" [Dkt. # 45] is DENIED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: May 14, 2008

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, May 14, 2008, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522